

Message Text

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EXDIS - MILITARY ADDRESSEE HANDLE AS SPECAT EXCLUSIVE

E.O. 11652:

TAGS: MASS, SA, US

SUBJECT: AGENT'S FEES

1. AMBASSADOR IS AUTHORIZED TO MEET WITH PRINCE SULTAN TO DISCUSS THE IMPLICATIONS OF HIS POLICY STATEMENT OF JUNE 14 PROHIBITING AGENT'S COMMISSIONS ON DIRECT GOVERNMENT-TO-GOVERNMENT MILITARY SALES, USING FOLLOWING TALKING POINTS.

2. ---THE USG WELCOMES PRINCE SULTAN'S ACTION AS A MEANS FOR STRENGTHENING RELATIONS BETWEEN OUR TWO COUNTRIES (A) BY REMOVING POTENTIALLY DISTRACTING ELEMENTS FROM GOVERNMENT-TO-GOVERNMENT TRANSACTIONS AND (B) BY MAKING CLEAR TO U.S. AND FOREIGN COMPANIES THE RULES FOR PARTICIPATION IN SUCH TRANSACTIONS IN THE FUTURE;

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3. ---IN ACCORDANCE WITH THE PRINCE'S STATEMENT, THE USG WILL ENDEAVOR TO ENSURE THAT SALES COMMISSIONS ARE NOT INCLUDED IN THE COSTS UNDER FOREIGN MILITARY SALES CONTRACTS BETWEEN THE USG AND SAG EXCEPT AS APPROVED BY THE SAG.

4. ---PRINCE SULTAN SHOULD BE AWARE, HOWEVER, OF AN UN-FORESEEABLE IMPLICATION TO HIS POLICY ANNOUNCEMENT. PRIOR TO INCEPTION OF THE PEACE HAWK PROGRAM NORTHROP CORPORATION ENTERED INTO CONTRACTS WITH TRIAD FINANCIAL CORPORATION HEADED BY ADNAN KHASHOGGI, ENFORCEABLE IN THE STATE OF CALIFORNIA UNDER CALIFORNIA LAW. THE TERMS OF SUCH CONTRACTS

REQUIRE THE PAYMENT TO TRIAD OF A FIVE PERCENT COMMISSION ON ALL USG SALES OF NORTHROP PRODUCTS OR SERVICES TO THE SAG, INCLUDING THOSE UNDER THE PEACE HAWK PROGRAM, EVEN IF SUCH COMMISSIONS ARE NOT INCLUDED IN THE COSTS OF SUCH SALES TO BE PAID BY THE SAG UNDER THE FOREIGN MILITARY SALES CONTRACT. CONSEQUENTLY, EVEN THOUGH SUCH COSTS WERE NOT ALLOWED IN CONTRACTS UNDER THE PEACE HAWK PROGRAM NOW UNDER CONSIDERATION, NORTHROP HAS ADVISED US THAT THEIR LEGAL COUNSEL HAS CONCLUDED THAT THE CORPORATION COULD BE SUBJECT TO LEGAL ACTION BY TRIAD IN CALIFORNIA WHICH COULD RESULT IN NORTHROP BEING HELD LIABLE FOR THE PAYMENT OF AGENT'S FEES TO TRIAD OF DOLS 4.5 MILLION ON THE PEACE HAWK III EXTENSION, DOLS 17 MILLION (IN ADDITION TO THE DOLS 6 MILLION ALREADY PAID) ON PEACE HAWK IV AND UP TO DOLS 88 MILLION ON PEACE HAWK V, IF THESE PROGRAMS ARE CONSUMMATED. SINCE NORTHROP'S CORPORATE ASSETS WOULD BE INSUFFICIENT TO MEET THIS POTENTIAL LIABILITY, ITS ATTORNEYS HAVE COUNSELED IT NOT TO UNDERTAKE THE ABOVE PROGRAMS WITHOUT THE PRIOR ELIMINATION OF THIS LEGAL EXPOSURE.

5. ---THOUGH THE PROBLEMS PRODUCED BY THE ABOVE CONTRACTUAL TERMS WOULD NORMALLY BE A LEGAL MATTER TO BE RESOLVED BETWEEN THE TWO PRIVATE COMPANIES, BOTH THE USG AND THE SAG HAVE AN INTEREST IN ENSURING THE SMOOTH CONTINUATION OF THE PEACE HAWK PROGRAM. WE BELIEVE THIS OBJECTIVE CAN BEST BE ATTAINED IF NORTHROP CONTINUES ITS INVOLVEMENT IN THE PROGRAM. THIS SEEMS ASSURED SHOULD THE SAG TAKE WHATEVER ACTIONS IT CONSIDERS APPROPRIATE
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TO ENSURE COMPLIANCE WITH ITS OFFICIALLY ANNOUNCED POLICIES BY AGENTS DOING BUSINESS IN SAUDI ARABIA. THOUGH THE SAG COULD BEST JUDGE THE MOST SUITABLE MEANS TO THIS END, IT WOULD SEEM DESIRABLE UNDER THE CIRCUMSTANCES FOR THE SAG TO CONSULT WITH REPRESENTATIVES OF NORTHROP TO RECEIVE THEIR ASSESSMENT OF THE MOST EFFECTIVE MEANS TO ELIMINATE THE COMPANY'S EXPOSURE THEREBY ENABLING IT TO CONTINUE ITS PARTICIPATION IN THE PEACE HAWK PROGRAM.

6. ---SHOULD PRINCE SULTAN INQUIRE ABOUT ACTIONS NORTHROP MIGHT CONSIDER NECESSARY TO ELIMINATE ITS LIABILITY, YOU MAY REPLY THAT NORTHROP HAS MENTIONED THE DESIRABILITY OF TRIAD EITHER EXECUTING A RELEASE OF NORTHROP FROM

EXISTING LIABILITY OR AGREEING TO A REVISION OF THE EXISTING CONTRACTS ELIMINATING THE REQUIREMENT FOR COMMISSIONS. IT WOULD SEEM PREFERABLE, HOWEVER, IF NORTHROP CONVEYED ITS VIEWS ON THESE MATTERS DIRECTLY TO THE SAG.

7. ---FYI. ON THE BASIS OF THE LATEST INFORMATION FROM NORTHROP'S ATTORNEYS, IT APPEARS THAT NORTHROP NO LONGER BELIEVES ITS PROBLEMS WOULD BE RESOLVED SATISFACTORILY THROUGH THE ISSUANCE OF A SAG DECREE LEGALLY PROHIBITING TRIAD OR OTHER AGENTS FROM RECEIVING COMMISSIONS. THE LATTER WOULD NOT FORECLOSE THE POSSIBILITY OF LITIGATION THE RESULTS OF WHICH WOULD BE UNCERTAIN. NORTHROP ALSO APPEARS TO HAVE ABANDONED ITS PREVIOUS INTEREST IN ATTEMPTING TO PROMOTE A SETTLEMENT WHEREBY THE SAG WOULD APPROVE A REDUCED AGENT'S FEE FOR TRIAD. WE CONSIDER THIS A SALUTARY DEVELOPMENT. END FYI. INGERSOLL

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